IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 5646 of 1996

For Approval and Signature:

HONOURABLE MR.JUSTICE JAYANT PATEL

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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BABASABEB AMBEDKAR CO OP. HOUSING SOCIETY LTD., & 1 - Petitioner(s)
Versus
COMPETENT AUTHORITY AND ADDIVIONAL COLLECTOR & 2 - Respondent(s)

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Appearance :

MR RS SANJANWALA for Petitioner(s) : 1 - 2.None for Petitioner(s) : None for Petitioner No(s).: for Petitioner(s) : 2.2.1, 2.2.2, 2.2.3, 2.2.4, 2.2.5, 2.2.6, 2.2.7, 2.2.8, 2.2.9, 2.2.10,2.2.11
NOTICE SERVED BY DS for Respondent(s) : 1 - 2.
MR BM MANGUKIYA for Respondent(s) : 3,

MR SATYAM CHHAYA, AGP FOR STATE AUTHORITIES

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CORAM : HONOURABLE MR.JUSTICE JAYANT PATEL

Date : 02/03/2007

ORAL JUDGMENT

1. The short facts of the case are that the petitioners requested to allot the land bearing Survey No.464/A at Village Adajan and land bearing Survey No.247/2 at Village Katargam, which were declared as surplus lands. On 20.11.1992, the respondents intimated to the petitioners that since the application was without court-fee stamps of Rs.10/-, the application was filed. The petitioners thereafter again made an application on 21.12.1992 by affixing the court-fee stamp of Rs.10/- and the petitioners mentioned that through oversight in the earlier application, the stamp was not affixed of Rs.10/-. It appears that thereafter the petitioners made reminders. However, on 18.4.1996 the petitioners received the impugned communication that as the lands were to be provided to poor urbans, the prayer for allotment of the lands was not accepted. It appears that the petitioners once again made a detailed representation pointing out that the petitioners are eligible for allotment of the land under

Section 23 of the Urban Land (Ceiling and Regulation) Act (hereinafter referred to as “the Act”). However, it appears that ultimately vide communication dated 28.6.1996, the competent authority informed that no land is available and the earlier decision was already taken on 18.4.1996 and, therefore, nothing was required to be done. It is under these circumstances the petitioners have approached this Court by the present petition.

2. Upon the perusal of the record of the petition, it appears that the basis of the petition is for allotment of the lands under Section 23 of the Act. It has been stated by the learned AGP, Mr.Chhaya that out of two lands, which were applied for allotment by the petitioners, in one of the lands, there was a Scheme under Section 21 of the Act proposed and granted and it has been further submitted on behalf of the State Government authorities that in any case, the Act is repealed by Urban Land (Ceiling and Regulation) Repeal Act, 1999 and, therefore, Section 23 of the Act no more remains in the

Statute Book.

3. In view of the above, since the application was made for allotment by taking basis under Section 23 of the Act, which is now repealed, the question of allotment under Section 23 of the Act would not survive and, therefore, as such the petition has become infructuous after the enactment of the Repeal Act.

4. Hence, the petition is disposed of as having become infructuous in view of the Repeal Act. However, it is clarified that the present order shall not operate as a bar to the petitioners to apply for any other Government land, if otherwise permissible in accordance with law and as per the prevailing policy of the Government.

2.3.2007 **(Jayant Patel, J.)**

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